

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

IN RE: CAPITAL ONE CONSUMER)
DATA BREACH SECURITY LITIGATION) MDL No. 1:19md2915 (AJT/JFA)
_____)

This Document Relates to ALL Cases

REQUEST TO BE APPOINTED CO-LEAD COUNSEL FOR PLAINTIFFS

Karen Hanson Riebel hereby respectfully submits this application for Plaintiffs' Lead Counsel, pursuant to Pretrial Order #1 (ECF No. 3). Ms. Riebel requests the Court's consideration, because she ably and amply meets all of the criteria for selecting Lead Counsel set out by the Court, has extensive professional experience in consumer data breach litigation, including Lead Counsel experience, and she is willing and available to commit to the time-consuming project of serving Plaintiffs, the Class, and the Court. Ms. Riebel is able to and will timely perform the duties set out in Pretrial Order #1 before the Initial Status Conference and Rule 16(b) Conference on January 21, 2020. Ms. Riebel is known for her ability to work cooperatively with others, both Plaintiffs' and Defendants' counsel, and is willing and able to commit resources to pursue this matter at an expeditious pace. Ms. Riebel is open to a Co-Lead Counsel structure, and respectfully suggests a three-way Co-Lead Counsel structure consisting of herself, Norman E. Siegel of Stueve Siegel Hanson LLP, and John A. Yanchunis of Morgan and Morgan. Each of the criteria described above and requested by Pretrial Order #1, is discussed below in turn.

A) Relevant Professional Experience

Karen Hanson Riebel, a partner with Lockridge Grindal Nauen, P.L.L.P. ("LGN"), has focused her practice on complex class action litigation for more than 27 years, and has been at the

forefront of litigating data breach and data privacy cases the United States. She has or is currently serving in leadership roles as follows: Co-Lead Counsel for consumers in *In re: Community Health Systems, Inc., Customer Security Data Breach Litigation* (MDL 2595), No. 15-cv-222-KOB (N.D. Ala.), Co-Lead Counsel for financial institution plaintiffs in *In re Arby's Restaurant Group, Inc. Data Security Litigation*, 17-00514 (N.D. Ga.), and in *Greater Chautauqua Federal Credit Union, et al. v. Kmart Corporation, et al.*, No. 15-02228 (N.D. Ill.); Liaison Counsel for the financial institution plaintiffs and on the Plaintiffs' Leadership Committee in *In re Target Corporation Customer Data Security Breach Litigation*, No. 14-02522-PAM (D. Minn.); Financial Institutions Plaintiffs' Steering Committee in *In re Home Depot, Inc., Customer Data Security Breach Litigation*, No. 14-02583-TWT (N.D. Ga.); member of the four person Executive Committee for plaintiffs in *In re Yahoo! Inc. Customer Data Security Breach Litigation*, No. 16-02752 (N.D. CA); member of the Executive Committee for plaintiffs in *In re: FedLoan Student Loan Servicing Litigation*, No. 18-02833 (E.D. PA); and as a member of the Plaintiffs' Executive Committees in *Shores et al v. Premera Blue Cross*, No. 15-01268 (D. Or.), *Bellwether Community Credit Union v. Chipotle Mexican Grill, Inc.*, 17-01102 (D. Co.), *Veridian Credit Union v. Eddie Bauer LLC*, No. 17-00356 (W.D. Wa.), *First Choice Federal Credit Union et al. v. The Wendy's Company et al.*, No. 16-00506 (W.D. PA), and *In re Equifax, Inc. Customer Data Security Breach Litigation*, No. 17-02800 (N.D. GA). Ms. Riebel is also serving or served as plaintiffs' counsel in *Echavarria et al v. Facebook, Inc.*, 18-05982 (N.D. CA), *In re Anthem, Inc. Data Breach*, No. 5:15-MD-02617-LHK (N.D. Cal), *In re Supervalu, Inc. Customer Data Security Breach Litigation*, MDL No. 2586 (D. Minn.), *In re Ashley Madison Customer Data Breach Security*

Litigation, MDL No. 2669 (E.D. MO), *Storm et al. v. Paytime, Inc.*, No. 14-01138-JEJ (M.D. Pa.), and *Dittman et al. v. UPMC et al.*, No. GD-14-003285 (Allegheny Cty., Pa.).¹

Ms. Riebel also has extensive trial experience. For example, she was a member of the team of lawyers that tried the *In re ICN/Viratek Securities Litigation* in the Southern District of New York before the Honorable Kimba Wood. The case was settled for \$14.5 million after the jury returned a partial verdict. In 1994, she spent seven months in Anchorage, Alaska, as a member of the trial team that secured a jury verdict for punitive damages in the amount of \$5 billion for a mandatory punitive damages class in *In re The Exxon Valdez*, Case No. A89-0095-CV (D. Alaska). For these efforts, she, along with the other members of the trial team, was awarded the Trial Lawyers' For Public Justice Trial Lawyers of the Year award in 1994. In addition, she was extensively involved in the administration and evaluation of the more than 50,000 claims submitted in that litigation.

Lockridge Grindal Nauen, Ms. Riebel's Minneapolis-based law firm, is one of the preeminent class action law firms in the country, has vast experience representing individuals, banks, financial institutions, shareholders, and other institutional investors in complex litigation, and has extensive experience litigating cases in Minnesota and across the country. LGN has over 40 accomplished lawyers and nearly 50 members of its support staff team and will devote the necessary financial and other resources needed to prosecute this case.

B) Willingness and Availability to Commit to a Time-Consuming Project

Ms. Riebel, as noted above, has extensive experience representing consumers, patients, and financial institutions in litigation similar to the case at bar. Three of those cases (the *Yahoo*, *Premiera* and *CHS* data breach litigations), in which Ms. Riebel was heavily involved, have

¹ Ms. Riebel's full biography is attached hereto as Exhibit A.

recently concluded or settled, with excellent results for the classes in each case. As a result, this is a perfect time for a new, time-consuming project, and Ms. Riebel is amply situated to devote extensive time and resources to the matter.

C) Ability to Work Cooperatively With Others

The description of Ms. Riebel's work, above, and the attached Exhibit A, highlight Ms. Riebel's ability to get along and work cooperatively with her co-counsel. She is known and well-respected as a team player and a generous, hard-working and fair colleague, co-counsel, and teammate throughout the Plaintiffs' bar. She is also well known and well respected among the members of the defense bar, and has demonstrated time and again her ability to fairly, efficiently and civilly litigate complex, multi-district litigation.

D) Willingness to Commit Resources to Pursue the Litigation Expeditiously

There are no financing agreements in place with respect to management and prosecution of Plaintiffs' claims. LGN has the capacity to finance the litigation without specifically engaging any "litigation funding." Ms. Riebel does not believe that a case of this size is served best by use of litigation financing devices, and that the Plaintiffs' interests can be best pursued using this traditional internal financing model.

E) Compensation Arrangements Counsel is Willing to Accept

Ms. Riebel anticipates that, as Lead Counsel and in conjunction with any PSC appointed, she would submit a fee request to the Court for approval at an appropriate time after settlement or judgment. In accordance with Federal Rule of Civil Procedure 23, Plaintiffs' counsel would submit a well-documented, well-supported fee application referencing appropriate benchmarks for hourly rates, including typical rates in the District and the Laffey Matrix to name just two.

There are a number of excellent, able candidates who Ms. Riebel understands will be submitting applications for Lead Counsel or steering committee. Ms. Riebel, as mentioned above,

has worked with nearly all of them and would be pleased and willing to work with any of them again. Ms. Riebel specifically requests that Ivy T. Ngo, of Franklin D. Azar and Associates, be appointed to the Plaintiffs' Steering Committee, if the Court chooses to create one. The Court's consideration of this application is appreciated.

Dated: November 18, 2019

By: /s/ Dale W. Pittman

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CERTIFICATE OF SERVICE

I certify that on this 18th day of November, 2019, I filed the foregoing with the Clerk of Court using the Court's CM/ECF system, which will send electronic notice to all counsel of record.

/s/ Dale W. Pittman

Dale W. Pittman